

H.B. 181 - Senator Patman
 H.B. 200 - Senator Ogg
 H.B. 370 - Senator Mauzy
 H.B. 371 - Senator Mauzy
 H.B. 441 - Senator Mauzy
 H.B. 569 - Senator Ogg
 H.B. 628 - Senator Traeger
 H.B. 974 - Senator Schwartz
 H.B. 845 - Senator Brooks
 H.B. 865 - Senator Aikin
 H.B. 1422 - Senator Aikin

Wednesday, May 23, 1973

H.B. 316 - Senator Gammage

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 811 - By Senator Wolff: Extending congratulations to Madia Elizabeth Estes.

S.R. 813 - By Senator Aikin: Extending welcome to Jim Asken.

S.R. 814 - By Senator Harrington: Extending congratulations to Judge George D. Taylor.

ADJOURNMENT

Senator Aikin moved the Senate take recess until 2:00 o'clock p.m. today.

Senator McKnight made the substitute motion that the Senate stand adjourned until 11:00 o'clock a.m. Monday.

Question on the motion to adjourn, the motion prevailed by the following vote: Yeas 18, Nays 13.

Yeas: Adams, Blanchard, Braecklein, Clower, Creighton, Harris, Herring, Longoria, McKinnon, McKnight, Meier, Mengden, Moore, Patman, Santiesteban, Sherman, Snelson and Traeger.

Nays: Aikin, Andujar, Brooks, Gammage, Harrington, Hightower, Jones, Kothmann, Mauzy, Ogg, Schwartz, Wallace and Wolff.

Accordingly the Senate at 12:13 o'clock p.m. adjourned until 11:00 o'clock a.m. Monday.

SEVENTY-NINTH DAY (Monday, May 21, 1973)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment, and was called to order by the President Pro Tempore.

The roll was called and the following Senators were present: Adams,

Aikin, Andujar, Blanchard, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

A quorum was announced present.

Sergeant Ken Wallingford, recently returned Prisoner of War, offered the invocation as follows:

Dear heavenly Father we come before you today to ask most humbly that you guide the leaders of our nation and state in this great land of ours in the way you would have them to do. Give courage and wisdom to each one who is here today but most of all we give thanks unto you for the many blessings and miracles you have performed in our lives through Jesus Christ our Lord and Saviour. Amen.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of Saturday, May 21, 1973, was dispensed with and the Journal was approved.

SENATE RESOLUTION 816

Senator Herring offered the following resolution:

WHEREAS, It is a rare privilege for the Texas Senate to have as its special guest this morning Sergeant Ken Wallingford, and to be able to express gratitude for the return of this brave Prisoner of War and all others who are home again with their families and friends; and

WHEREAS, In coming before the Senate to give the invocation Sergeant Wallingford serves to remind us, because of his searing experience and his own fine character, that great faith and service to one's country have traditionally gone hand in hand in this nation and together they have shaped our nation's greatness; and

WHEREAS, Sergeant Wallingford, who was flown to Brooke General Hospital last February 14 following his release from the Viet Cong, is presently on convalescent leave in Austin; he has received numerous decorations and is in the process of receiving additional recognition for his bravery and outstanding military service; in June he expects to return to civilian life and make his home in Austin; and

WHEREAS, While on convalescent leave, he has given time generously to young people's groups and churches inviting him to appear on their programs; he is a member of the Hyde Park Baptist Church in Austin; his parents are Mrs. Aljean Wallingford of Austin and retired Air Force Colonel George Wallingford of Oklahoma City; now, therefore be it

RESOLVED, That the Texas Senate express great appreciation to Sergeant Ken Wallingford for delivering the invocation before the Senate and warm good wishes for success and happiness in all his endeavors; and be it further

RESOLVED, That the Secretary of the Senate prepare copies of this Resolution for Sergeant Wallingford and his family as a remembrance of this day.

The resolution was read and was adopted.

On motion of Senator Herring and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Herring, the resolution was adopted.

(President in Chair)

MESSAGE FROM THE HOUSE

Hall of the House of Representatives
Austin, Texas, May 21, 1973

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 11, Permitting T. F. Jenkins, et al., to sue the State the State of Texas.

S.C.R. 23, Granting permission to W.D. Harper and/or his estate to sue the state.

S.C.R. 24, Authorizing Paul Glass to sue the State of Texas.

S.C.R. 25, Authorizing Wilma Perkins Jorgenson, James I. Perkins, and Morinne T. Perkins to sue the State of Texas.

S.C.R. 26, Granting permission for Phillip Gant, Jr. to sue the State of Texas.

S.C.R. 37, Granting Bateson Construction Co. et al., permission to sue the State and the University of Texas.

S.C.R. 76, Granting Emerald Properties permission to sue the State of Texas.

S.C.R. 78, Granting Penroc Oil Corporation, et al., permission to sue the State of Texas.

S.C.R. 86, Allowing certain companies to sue the State of Texas.

S.C.R. 90, Granting certain parties and their respective heirs permission to sue the State of Texas.

S.C.R. 116, Inserting two new sections Senate Joint Resolution No. 8, amending Article III, Section 49a, and Article XVIII, Section 6, of the Texas Constitution. (With amendment)

The House has adopted the Conference Committee Report on Senate Bill 123 by a vote of 80 Ayes, 44 Noes.

House Conferees were named on H.B. 339, consisting of Cobb, Chairman; Wilson, Newton, Lary, and Cavness.

The House refused to concur in Senate amendments to House Bill 264 and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Hale, Chairman; Jones of Harris, Lary, Sullivan and Preston.

The House has concurred in Senate amendments to House Bill 463 by vote of 112 Ayes, 4 Noes, and 6 Present-Not voting.

The House has concurred in Senate amendments to House Bill 1567 by vote of 117 Ayes, 0 Noes, and 6 Present-Not voting.

The House has concurred in Senate amendments to House Bill 177 by a Non-record vote.

The House has concurred in Senate amendments to House Bill 1630 by vote of 121 Ayes, 1 No, and 3 Present-Not voting.

The House has concurred in Senate amendments to House Bill 6 by vote of 125 Ayes, 0 Noes.

H.C.R. 36, Granting permission for L. L. Haney and wife, Betty Jo Haney, to sue the State of Texas.

H.C.R. 69, Granting Moses M. Kincannon permission to sue the State of Texas.

H.C.R. 75, Granting permission to Robert D. Hejl to sue the State of Texas and the Texas State Department of Health.

H.C.R. 127, Requesting State Board of Education and Textbook Committee to study means of reducing costs of textbooks.

H.C.R. 129, Directing the Texas Civil Judicial Council to make a compilation of local rules and recommend model rules for the courts of Texas.

H.C.R. 138, Authorizing Charles H. Skeen to sue the State of Texas for damage to his property resulting from the elevation of State Highway 80.

H.C.R. 155, Memorializing Congress to pass H.R. 6554 by Representative James Burke.

H.C.R. 160, Granting American Printing and Lithographing Company permission to sue the State of Texas.

H.C.R. 161, Memorializing the Congress to take favorable action of S1587, which would prevent the proposed closing of certain Public Health Service hospitals and facilities.

H.C.R. 162, Requesting the Legislative Budget Board to provide research, analysis, and continuing studies on revenue and taxation and formulate recommendations to the Legislature.

H.C.R. 165, Granting Delores Warner permission to sue the state.

H.C.R. 171, Granting permission to S & G Construction Company, Inc., to sue the State.

H.C.R. 174, Encouraging Nueces County Navigation District No. 1 to implement its project for a deep water port facility at Harbor Island.

H.C.R. 181, Memorializing Congress to direct U.S.D.A. to have more realistic regulations regarding classing of cotton, particularly in reducing penalties on "barkie" cotton.

H.C.R. 185, Memorializing the Congress of the United States to authorize the use of cyanide guns as an effective and humane method of dealing with problems of predator control.

H.C.R. 198, Recognizing the 1st week in September as "Hire the Older Worker Week".

H.B. 103, A bill to be entitled An Act amending Title 1 of the Family Code as follows: amending Section 1.01, relating to the persons who may acquire a marriage license; amending Section 1.02, relating to application for a marriage license; amending Subsection (b), Section 1.03, relating to the content of the marriage license application; amending Section 1.05, relating to application for a marriage license without a personal appearance before the clerk; amending Section 1.06, relating to the execution of the marriage license application; amending Section 1.07, relating to the issuance of a marriage license; amending Subchapter C, Chapter 1, relating to age requirements and parental or other consent for marriage; amending Section 1.82, relating to the ceremony; amending Section 1.92, relating to the declaration and registration of informal marriage; amending Chapter 1 by adding Sections 1.93, 1.94, and 1.95, relating to the issuance of declarations of informal marriages, violations by county clerks, and the application of penalties; amending Section 2.41, relating to marriages that are voidable and subject to annulment by the court sitting without a jury; amending Section 3.08, relating to defenses to a suit for divorce; amending Section 3.21, relating to domicile and residence requirements for divorce suits; amending Section 3.22, relating to the residency of a person absent on public service; amending Section 3.23, relating to the domiciliary and residency status of certain military personnel; amending Section 3.24, relating to a suit by a nonresident spouse; amending Section 3.25, providing for a suit to declare a marriage void; amending Section 3.52, relating to pleadings; amending Section 3.53, relating to a suit to declare a marriage void; amending Section 3.54, relating to the requirement and availability of counseling; amending Section 3.56, relating to a suit to declare a marriage void; amending Section 3.58, relating to a suit to declare a marriage void; amending Section 3.64, relating to change of name and removing the requirement that a divorce or annulment decree must be based on full and satisfactory evidence; amending Section 3.65, relating to a suit to declare a marriage void; amending Section 5.03, relating to recordation of a schedule of separate property and the effect of recordation; amending Subsections (b) and (c), Section 5.22, relating to the management, control, and disposition of community property; amending Section 5.24, relating to the protection of third persons; amending Section 5.25, relating to management, control, and disposition of certain community property in certain unusual circumstances; amending Section 5.26, relating to management, control, and disposition of certain community property in case of a spouse missing on public service; amending Chapter 5 by adding a Section 5.27, relating to cumulative remedies; amending Subsection (e), Section 5.41, and Subsection (d), Section 5.42, relating to recordation of agreements and constructive notice of these agreements; amending Subsection (b), Section 5.83, providing for the appointment of an attorney for the suit; amending Chapter 5 by adding a Section 5.831, relating to certain homestead rights in the case of a missing spouse; amending Section 5.85, relating to certain homestead rights under unusual circumstances; amending Section 5.86, relating to cumulative rights and remedies; amending Section 5.87, as added, relating to a community homestead when a spouse is missing on public service; repealing Sections 2.46 and 3.66, Family Code; and declaring an emergency.

H.B. 568, A bill to be entitled An Act making appropriations for and directing payment of certain miscellaneous claims and judgments out of the General Revenue Fund and other funds designated herein; requiring approval of the claims in the manner specified in the Act before payment is made; providing for severability; repealing laws in conflict; and declaring an emergency.

H.B. 692, A bill to be entitled An Act relating to the subpoena and attachment of out-of-county witnesses for grand juries; amending Article 20.11, Code of Criminal Procedures, 1965; and declaring an emergency.

H.B. 728, A bill to be entitled An Act relating to mentally retarded persons and the responsibility of their estates for their support and maintenance

as students in state schools; excluding from their estates the assets of certain trusts; amending Subsection (b), Section 21, The Mentally Retarded Persons Act (Article 3871b, Vernon's Texas Civil Statutes); and declaring an emergency.

H.B. 739, A bill to be entitled An Act establishing the Texas Air Control Board as an independent state agency; amending Sections 2.08, 2.09, and 2.10 of the Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes); and declaring an emergency.

H.B. 849, A bill to be entitled An Act relating to the protection of persons and property on the property under the control of the board of trustees of a school district; amending Chapter 21, Education Code, by adding Subchapter M; and declaring an emergency.

H.B. 854, A bill to be entitled An Act relating to the affixing of inspection certificates to motorcycles; amending Subsection (b), Section 142, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes); and declaring an emergency.

H.B. 866, A bill to be entitled An Act relating to the time during which new residents of the state must obtain a Texas driver's license; adding Section 3A to Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes); and declaring an emergency.

H.B. 940, A bill to be entitled An Act relating to tuition equalization grants for certain veterans enrolled in certain private institutions of higher education; amending Chapter 828, Acts of the 62nd Legislature, Regular Session, 1971 (Article 2654h, Vernon's Texas Civil Statutes), by adding Section 5a; and declaring an emergency.

H.B. 992, A bill to be entitled An Act relating to tuition exemptions for children from low-income families; amending Subsection (c), Section 54.206, Texas Education Code; and declaring an emergency.

H.B. 1094, A bill to be entitled An Act amending Senate Bill 36, Page 544, General Laws of the State of Texas, Acts of the 46th Legislature, Regular Session, 1939, as amended by House Bill 611, Chapter 562, Page 914, General and Special Laws of the State of Texas, 47th Legislature, Regular Session, 1941, as amended (Article 695c, Vernon's Texas Civil Statutes); by amending Sections 7 and 7-A pertaining to Commodities; by adding a new Section 7-B to provide for the establishment of a statewide "Food Stamp Program" to be administered by the State Department of Public Welfare; authorizing the State Department to accept and expend funds; authorizing assessments; authorizing research and demonstration projects; authorizing a method of deducting funds from money payments of recipients for the purchase of food stamps; providing for personnel in accordance with a merit system; providing for the promulgation of reasonable rules and regulations for determining eligibility for Food Stamps; by adding a new Section 7-C providing for the detection and prosecution of fraud and for recovery of losses; by adding a new Section 7-D authorizing the bonding of employees, providing for indemnification against losses, and authorizing the State Department to take steps necessary to operate the Programs; safeguarding confidentiality of records and adherence to the Civil Rights Act of 1964; by adding a new Section 7-E relating to the acquisition of office space; and by amending Section 2, Article XX of Chapter 184, Acts of the 47th Legislature, Regular Session, 1941, codified as Article 7083a, Vernon's Texas Civil Statutes, so as to create a "Food Stamp Fund" in the Treasury and for making allocations thereto; providing a repealing clause, a savings clause, and declaring an emergency.

H.B. 1145, A bill to be entitled An Act relating to the salary of certain assistant county superintendents; amending Subsection (a), Section 17.52, Texas Education Code, as amended; and declaring an emergency.

H.B. 1162, A bill to be entitled An Act relating to transportation costs for certain vocational education students; amending Section 16.56, Texas Education Code, as amended, by adding Subsection (h); and declaring an emergency.

H.B. 1175, A bill to be entitled An Act relating to labeling of fish sold in this state; providing penalties and declaring an emergency.

H.B. 1188, A bill to be entitled An Act relating to the marketing of certain agricultural commodities; authorizing the establishment of marketing orders after vote of the producers and handlers of a commodity and certification by the commissioner of agriculture; providing enforcement procedures; providing penalties; and declaring an emergency.

H.B. 1196, A bill to be entitled An Act relating to the application of certain motor vehicle laws to motor-assisted bicycles; amending Section 2 of and adding Subsection (d) to Section 178, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes); amending Subsection (c) of Section 1 and adding Subsection (i) to Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended (Article 6675a-1 and 6675a-2, Vernon's Texas Civil Statutes); amending Section 1, Chapter 329, Acts of the 60th Legislature, Regular Session, 1967 (Article 6701c-3, Vernon's Texas Civil Statutes); amending Section 1 and Subsection (e) of Section 12, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes); amending Section 2, Certificate of Title Act, as amended (Article 1436-1, Vernon's Texas Penal Code); and declaring an emergency.

H.B. 1259, A bill to be entitled An Act relating to the exercise by attorneys at law of authority now exercised by notaries public; and declaring an emergency.

H.B. 1417, A bill to be entitled An Act relating to the salaries of certain county officials in certain counties; amending Subsection (c), Section 8, Chapter 427, Acts of the 54th Legislature, 1955, as amended (Article 3883i, Vernon's Texas Civil Statutes); and declaring an emergency.

H.B. 1451, A bill to be entitled An Act amending Article 1811 of the Revised Civil Statutes of Texas, relating to the office of State Prosecuting Attorney so as to provide for the appointment by the State Prosecuting Attorney of one or more Assistant State Prosecuting Attorneys who have the same qualifications, duties, a term of office as the State Prosecuting Attorney; and declaring an emergency.

H.B. 1471, A bill to be entitled An Act relating to Urban Renewal and the execution of a New Community Development Program; amending the Urban Renewal law, in particular the following Sections and Subsections of Chapter 298, Acts of the 55th Legislature, Regular Session, 1957, (Article 1269, 1-3, Vernon's Texas Civil Statutes); Subsection (h) and Section 4, as amended by Section 1, Chapter 732, Acts of the 60th Legislature, 1967; Subsection (i) of Section 4; Subsection (j) of Section 4; Subsection (k) of Section 4; Subsection (m) of Section 4; Subsection (d) of Section 9; Section 9 by addition thereto of the following subsections (m), (n), and (o); Section 11 by addition thereto of the following Subsection (f); Section 12 by addition thereto of the following Subsection (c); and Section 22; and declaring an emergency.

H.B. 1472, A bill to be entitled An Act relating to the issuance of Certificates of Indebtedness by cities, as authorized for New Community plans adopted by city or town under federal act; amending Section 1, Chapter 957, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1269j-4.7, Section 1, Vernon's Texas Civil Statutes); and declaring an emergency.

H.B. 1524, A bill to be entitled An Act amending Acts 1967, 60th Legislature, Page 310, Chapter 151, (Article 695j-1, Vernon's Civil Statutes); providing for maintenance of certain standards under the Act relating to the Vendor Drug Program; providing for an emergency.

H.B. 1531, A bill to be entitled An Act relating to the creation, establishment, maintenance, operation, administration, powers, duties, and financing of the Palo Duro River Authority of Texas; and declaring an emergency.

H.B. 1560, A bill to be entitled An Act relating to the regulation of loans; amending Chapter 274, Acts of the Sixtieth Legislature, Regular Session, 1967, as amended (Article 5069, Vernon's Texas Civil Statutes); and declaring an emergency.

H.B. 1570, A bill to be entitled An Act excepting grain owned by warehousemen, paid for by them, and stored in their own warehouses from requirements for casualty insurance; amending Subsection (a), Section 9, Chapter 811, Acts of the 61st Legislature, Regular Session, 1969 (Article 5577b, Vernon's Texas Civil Statutes); and declaring an emergency.

H.B. 1670, A bill to be entitled An Act relating to authorizing the Texas Youth Council to contract with counties for probation or parole services; providing a fee; providing for reports; amending Chapter 281, Acts of the 55th Legislature, Regular Session, 1957 (Article 5143d, Vernon's Texas Civil Statutes), by adding a Section 25A; and declaring an emergency.

H.B. 1682, A bill to be entitled An Act relating to the abolition of the County School Superintendent and the Board of School Trustees in Caldwell County and declaring an emergency.

H.B. 1691, A bill to be entitled An Act amending Chapter Three of the Insurance Code (Chapter 491, Acts of the 55th Legislature, Regular Session, 1957, as amended) controlling the operation of life, health and accident insurance companies in this State by adding thereto new articles relating to the issuance of certificates of authority to foreign insurance companies, the authority of the Commissioner of Insurance to issue orders designed to rectify an existing hazardous financial condition of any insurance company, providing procedures to be followed when insufficient assets are possessed by a company, prohibiting certain sales of insurance by any insolvent or impaired company, providing fine for violation; providing for severability; and declaring an emergency.

H.B. 1704, A bill to be entitled An Act relating to the requirements of a private beauty culture school; amending Section 27, Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 734c, Vernon's Texas Penal Code); and declaring an emergency.

H.B. 1709, A bill to be entitled An Act relating to the taking of quail in Cherokee County; amending Subsection (a) of Section 1, Chapter 165, Acts of the 60th Legislature, Regular Session, 1967; and declaring an emergency.

H.B. 1710, A bill to be entitled An Act relating to the taking of deer in certain parts of Cherokee County; amending Section 1, Chapter 409, Acts of the

60th Legislature, Regular Session, 1967, as amended; and declaring an emergency.

H.B. 1715, A bill to be entitled An Act relating to the compensation of the official shorthand reporter of the 149th Judicial District; and declaring an emergency.

H.B. 1716, A bill to be entitled An Act relating to group dental care services; amending Section A, Article 2.01, Texas Non-Profit Corporation Act, as amended (Article 1396-2.01, Vernon's Texas Civil Statutes), Section 11, Chapter 244, Acts of the 44th Legislature, Regular Session, 1935, as amended (Article 4551b, Vernon's Texas Civil Statutes), and Article 753, Penal Code of Texas, 1925, as amended; and declaring an emergency.

H.B. 1718, A bill to be entitled An Act relating to the creation, establishment, administration, maintenance, operation, and financing of the Darrouzett Hospital District of Lipscomb County, Texas, under Article IX, Section 9, of the Texas Constitution; and declaring an emergency.

H.B. 1722, A bill to be entitled An Act relating to the authority of the ex officio county school superintendent in certain counties; amending Section 1, Chapter 415, Acts of the 62nd Legislature, Regular Session, 1971 (Article 2899aa, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 32, A bill to be entitled An Act providing for driver's license examinations in the Spanish language for persons unable to take the examination in English; adding Section 10A to Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 51, A bill to be entitled An Act creating County Criminal Court No. 4 of Dallas County, Texas; etc.; and declaring an emergency. (With amendments)

S.B. 64, A bill to be entitled An Act relating to the terms of court of the 182nd, 183rd, 184th, and 185th District Courts; amending Sections 3.010, 3.011, 3.012, and 3.013, Judicial Districts Act of 1969 (Article 199a, Vernon's Texas Civil Statutes), by adding a Subsection (c); and declaring an emergency.

S.B. 66, A bill to be entitled An Act relating to the disposal of abandoned motor vehicles; relating to junked vehicles found upon public rights-of-way; amending Sections 2, 5 and 10, Chapter 784, Acts of the 62nd Legislature, Regular Session, 1971, as amended, (Article 1436-3, Vernons's Texas Penal Code); and declaring an emergency. (With amendments)

S.B. 138, A bill to be entitled An Act relating to the appointment and duties of a jail administrator in certain counties; amending Article 5116, Revised Civil Statutes of Texas, 1925; and declaring an emergency.

S.B. 180, A bill to be entitled An Act relating to the licensure of administrators of child-caring institutions by the State Department of Public Welfare; prohibiting any person from serving as an administrator of a child-caring institution unless he holds a license; providing a penalty; and declaring an emergency.

S.B. 231, A bill to be entitled An Act relating to the employees of the Interstate Parole Compact; amending Article 42.11, Code of Criminal Procedure, 1965, by adding Section 3; and declaring an emergency.

S.B. 234, A bill to be entitled An Act relating to clearing corporations

for the transfer of investment securities; amending Subsection (c), Section 8.102, Business and Commerce Code; and declaring an emergency.

S.B. 252, A bill to be entitled An Act relating to the regulation of practices used in the collection of debts; providing penalties; and declaring an emergency. (With amendments)

S.B. 269, A bill to be entitled An Act relating to the excavation of sand from certain public beaches; amending Chapter 19, Acts of the 61st Legislature, Second Called Session, 1969 (Article 5415q, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 328, A bill to be entitled An Act relating to the appointment and bond of directors of the Brazos River Authority; amending Section 6, Chapter 13, Special Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended (Article 8280-101, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 334, A bill to be entitled An Act relating to the minimum age for employment as a parole officer or supervisor; amending Section 28, Article 42.12, Code of Criminal Procedure, 1965; and declaring an emergency.

S.B. 349, A bill to be entitled An Act relating to the eligibility of certain consolidated school districts for incentive aid payments; amending Section 23.999, Texas Education Code; and declaring an emergency.

S.B. 360, A bill to be entitled An Act relating to payment of benefits under insurance policies providing hospital, nursing, medical, or surgical coverage; amending Chapter 3, Insurance Code, as amended, by adding Article 3.42B; and declaring an emergency. (With Amendments)

S.B. 370, A bill to be entitled An Act relating to requiring certain nonprescription drugs to be sold only on prescription; repealing Sections 8 and 8A, Uniform Narcotic Drug Act, as amended (Article 725b, Vernon's Texas Penal Code); and declaring an emergency.

S.B. 392, A bill to be entitled An Act amending Section 1, Chapter 80, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 3207b, Vernon's Texas Civil Statutes); relating to qualifications for members of the Board of the State Commission for the Blind; prohibiting the appointment to the Board of the State Commission for the Blind of certain individuals with financial interests in services of the type provided through the State Commission for the Blind; and declaring an emergency.

S.B. 405, A bill to be entitled An Act relating to the removal of dedication of property for cemetery purposes under certain circumstances; amending Section 11, Chapter 340, Acts of the 49th Legislature, Regular Session, 1945 (Article 912a-11, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 432, A bill to be entitled An Act relating to exempting building construction projects of the Parks and Wildlife Department from certain provisions of the State Building Construction Administration Act; amending Section 3, Chapter 455, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 678f, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 455, A bill to be entitled An Act relating to certain specified money penalties which may be assessed by the State Board of Insurance; amending Article 1.04, Insurance Code, as amended, by adding Subsection (c); and

declaring an emergency.

S.B. 464, A bill to be entitled An Act relating to the testing of students for placement in special education classes for the mentally retarded; amending Subchapter Z, chapter 21, Texas Education Code, by adding Section 21.911; and declaring an emergency.

S.B. 467, A bill to be entitled An Act relating to the construction and operation of county-owned parking stations near county courthouses in counties with a population of 290,000 or more; and declaring an emergency. (With amendments)

S.B. 485, A bill to be entitled An Act to supplement the appropriation to Texas A and M University for utilities for the year ending August 31, 1973, by the amount of \$401,975.00 to pay additional cost of fuel to provide utilities to the educational and general facilities of the University. (With amendment)

S.B. 487, A bill to be entitled An Act amending Section 87.101, Chapter 87, Texas Education Code, so as to change the name of Prairie View Agricultural and Mechanical College of Texas to Prairie View A and M University; and declaring an emergency.

S.B. 508, A bill to be entitled An Act relating to the issuance of licenses by the Texas Cosmetology Commission; amending Subsection (a), Section 18, and Section 38, Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 743c, Vernon's Texas Penal Code) by adding a new Subsection (d); and declaring an emergency.

S.B. 523, A bill to be entitled An Act relating to the creation of the County Criminal Courts at Law Nos. 5, 6, and 7 of Harris County; and declaring an emergency. (With amendment)

S.B. 527, A bill to be entitled An Act relating to the compensation of the criminal district attorney of Galveston County; amending Section 4, Chapter 124, Acts of the 54th Legislature, 1955, as amended (Article 326k-28, Vernon's Texas Civil Statutes); and declaring an emergency. (With amendment)

S.B. 538, A bill to be entitled An Act creating Midlothian Water District as a conservation district; etc.; and declaring an emergency.

S.B. 593, A bill to be entitled An Act relating to pilot programs for the detection of certain health defects and problems in school children; amending Subchapter A, Chapter 11, Texas Education Code, by adding a Section 11.20; and declaring an emergency.

S.B. 605, A bill to be entitled An Act amending Section 2.09, Chapter 2, Texas Education Code, relating to immunization; and declaring an emergency.

S.B. 609, A bill to be entitled An Act relating to donations of property to The University of Texas System and the legal title to such donations; amending Subsections (a) and (b), Section 65.36, Texas Education Code; repealing all laws in conflict; and declaring an emergency.

S.B. 610, A bill to be entitled An Act relating to the appointment of a substitute member to the Board for Lease of University Lands under certain circumstances; amending Subsection (a), Section 66.62, Texas Education Code; repealing all laws in conflict; and declaring an emergency.

S.B. 612, A bill to be entitled An Act relating to the terms of office of the members of the Board of Regents of The University of Texas System;

amending Section 65.12, Texas Education Code; and declaring an emergency.

S.B. 617, A bill to be entitled An Act to amend Section 3.07 of Chapter 3 of the Texas Education Code by adding thereto a subsection (b); to authorize and relating to payment of premiums for group life and health insurance for retired employees of Central Education Agency, Texas Rehabilitation Commission, and the Coordinating Board, Texas College and University System who retired as members under the Teachers Retirement System of Texas; prescribing limitations and provisions appertaining thereto; and declaring an emergency.

S.B. 675, A bill to be entitled An Act relating to discharge of municipal sewage by the City of San Antonio which does not meet certain standards into open ponds whose surface area covers more than one acre; providing for damages; requiring construction of water waste treatment facilities; providing a penalty; and declaring an emergency.

S.B. 684, A bill to be entitled An Act relating to exempting all repair, remodeling, and maintenance projects of the State Board of Control from certain provisions of the State Building Construction Administration Act; amending Section 3, Chapter 455, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 678f, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 709, A bill to be entitled An Act providing that the State Department of Public Welfare may receive child support payments ordered by a court where the department is paying assistance or providing services on behalf of the dependent child; etc.; and declaring an emergency.

S.B. 722, A bill to be entitled An Act amending Chapter 409, Acts of the 61st Legislature of the State of Texas, Regular Session, 1969, as amended by Chapter 202, Acts of the 62nd Legislature, Regular Session, 1971, to clarify the power to provide disposal systems; etc.; and declaring an emergency.

S.B. 764, A bill to be entitled An Act to provide for the amending of Chapter 57, page 130, Act 1957, 55th Legislature, known as Article 2351a-6, Vernon's Annotated Civil Statutes as amended by providing for the creation of multi-county Rural Fire Prevention Districts; etc.; and declaring an emergency.

S.B. 777, A bill to be entitled An Act relating to the assessment of life, health, accident, and group hospital service insurers for the protection of persons entitled to policy benefits of impaired life, health, accident, and group hospital service insurers; etc.; and declaring an emergency. (With amendments)

S.B. 802, A bill to be entitled An Act relating to the compensation to be paid from county funds to district court judges serving in certain counties; amending Section 1. (a), Chapter 359, Acts of the 57th Legislature, Regular Session, 1961 (Article 6819a-19b, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 806, A bill to be entitled An Act relating to the purchasing procedure in counties having a population not less than 350,000 and not more than 800,000 and having an assessed valuation of \$800,000,000 or more; amending Article 1659b; and declaring an emergency.

S.B. 816, A bill to be entitled An Act relating to payment of royalty under oil, gas, or other mineral leases issued by a Board of Lease, the School Land Board, or the Commissioner of the General Land Office and the disposition of royalty taken in kind; defining terms; and declaring an emergency.

S.B. 818, A bill to be entitled An Act amending Section 66.68, Subchapter D, Texas Education Code, by requiring a provision in oil and gas leases covering university lands that allows the Board for Lease of University Lands at its discretion to take royalty payments in kind; providing for severability; repealing all laws in conflict herewith to the extent of such conflict only; and declaring an emergency.

S.B. 822, A bill to be entitled An Act validating the incorporation, boundaries, and governmental proceedings of certain cities and towns; and declaring an emergency.

S.B. 839, A bill to be entitled An Act authorizing the board of regents of Lamar University to convey a certain tract of land to the City of Port Arthur, Texas, in exchange for a certain tract of land owned by the City of Port Arthur; and declaring an emergency.

S.B. 855, A bill to be entitled An Act relating to the coordination of emergency medical services by the State Department of Health; and declaring an emergency.

S.B. 859, A bill to be entitled An Act relating to competitive bidding on contracts made by cities and counties; amending Section 2, Chapter 163, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 863, A bill to be entitled An Act relating to the training and certification of certain persons who perform hair cleansing and scalp conditioning in beauty shops; amending Subsection (a) and adding Subsection (c), Section 12, Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 734c, Vernon's Texas Penal Code); amending Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 734c, Vernon's Texas Penal Code), by adding Section 55; and declaring an emergency. (With amendments)

S.B. 867, A bill to be entitled An Act amending Section 2 of the Lower Colorado River Authority Act, Chapter 7, Acts of the 43rd Legislature, 4th Called Session, 1934, as amended (codified as Article 8280-107, Section 2, Vernon's Texas Civil Statutes) to authorize the Board of Directors to impose reasonable fees and charges for the development and maintenance of parks and recreational facilities; and declaring an emergency. (With amendments)

S.B. 871, A bill to be entitled An Act relating to defining the term "person affected" and setting forth that definition; amending the Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), by adding Section 2.0 (13); and declaring an emergency. (With amendments)

S.B. 890, A bill to be entitled An Act relating to the compensation of the criminal district attorney and judge of the county court at law in Hidalgo County; amending Subsection (b), Section 2, Chapter 89, Acts of the 56th Legislature, Regular Session, 1959, as amended; amending Subsection (a), Section 11, Chapter 25, Acts of the 52nd Legislature, 1951, as amended (Article 1970-341, Vernon's Texas Civil Statutes); and declaring an emergency. (With amendments)

S.B. 886, A bill to be entitled An Act amending Chapter 302, Acts of the 52nd Legislature, 1951 (Article 6701g, Vernon's Texas Civil Statutes), relating to establishment of restricted traffic zones by the Commissioners Court of any county; providing for severability; and declaring an emergency.

S.B. 893, A bill to be entitled An Act amending Section 2(d) (1) of Chapter 722, Acts of the 59th Legislature, Regular Session, 1965, as amended

(Article 46.02, Code of Criminal Procedure, 1965, as amended); relating to the state mental hospital to which defendants shall be committed; and declaring an emergency.

S.B. 923, A bill to be entitled An Act amending Chapter 210, page 1042, Acts of the 62nd Legislature, 1971, (Article 3886K, Vernon's Texas Civil Statutes), relating to the compensation to Criminal District Attorneys and District Attorneys in certain counties; prohibiting their engaging in the private practice of law; and declaring an emergency.

S.B. 947, A bill to be entitled An Act relating to the composition of the Galveston County Juvenile Board and the compensation of its members; relating to the membership and duties of the Citizens Juvenile Advisory Board; amending subsections (a) and (b), Section 8, Chapter 64, Acts of the 57th Legislature, 3rd Called Session, 1962, as amended (Article 2338-16, Vernon's Texas Civil Statutes); and declaring an emergency. (With amendments)

Respectfully submitted,
DOROTHY HALLMAN
Chief Clerk, House of Representatives

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

S.C.R. 105	S.B. 383
S.J.R. 29	S.B. 454
S.B. 44	S.B. 695
S.B. 129	S.B. 725
S.B. 237	S.B. 858
S.B. 263	S.J.R. 25 (Again signed)

REPORTS OF STANDING COMMITTEES

Senator Creighton submitted the following reports for the Committee on Economic Development:

C.S.H.B. 64 (Read first time)
H.B. 383
H.B. 694 (Amended)

Nomination of Ned Price, Member, State Board of Insurance; R. H. Pruett, Member, Texas Offshore Terminal Commission.

Senator Mauzy submitted the following reports for the Committee on Education:

H.B. 155
H.C.R. 77
C.S.H.B. 116 (Read first time)
H.B. 365
H.B. 1633 (Amended)
H.B. 1118
H.B. 1477
H.B. 1072
C.S.H.B. 1068 (Read first time)
C.S.S.B. 746 (Read first time)
H.B. 946 (Amended)
C.S.H.B. 83 (Read first time)

H.B. 1463
H.B. 1153
S.B. 970

Nomination of George Allen, Member, Board of Regents, Texas Southern University.

(Senator Aikin in Chair)

SENATE CONCURRENT RESOLUTION 118

Senator Snelson offered the following resolution:

S.C.R. 118, Empowering Texas Legislative Council to enter into interagency contracts with the State Commission for the Blind to assure appropriate involvement of federal funds in certain studies.

On motion of Senator Snelson and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE RESOLUTION ON FIRST READING

The following resolution was introduced, read first time and referred to the Committee indicated:

By Senator Andujar:

S.R. 827, Requesting that the Texas Education Agency make every effort to ensure that the public schools of Texas inform and educate their students on the complications, areas affected, etc., by the passage of S.B. 123.

To Committee on Administration

HOUSE BILL 832 RE-REFERRED

On motion of Senator Patman and by unanimous consent, H.B. 832 was withdrawn from the Committee on Jurisprudence and re-referred to the Committee on Intergovernmental Relations.

(President in Chair)

**COMMITTEE SUBSTITUTE SENATE BILL 456
ON SECOND READING**

On motion of Senator Jones and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 456, A bill to be entitled An Act relating to workmen's compensation law; amending Sections 1, 2, 3a, 3b, 12h, and 14, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, and adding Sections 1a and 1b; amending Section 2, Article 8309, Revised Civil Statutes of Texas, 1925, as amended; repealing Section 3c, Article 8306, Revised Civil Statutes of Texas, 1925; and declaring an emergency.

The bill was read second time.

Senator Jones offered the following amendment to the bill:

Amend C.S.S.B. 456 by striking Sec. 4 of the Bill and renumbering the succeeding Sections appropriately.

The amendment was read and was adopted.

Senator Jones offered the following amendment to the bill:

Amend Sec. 10, Subsection (c)(2)(B) of Section 2 of the Committee Substitute for Senate Bill 456 to read as follows:

"Every such employer shall also be subject to all taxes which would be payable under the laws of this state by an insurer organized by such employer for the exclusive purpose of providing workman's compensation insurance coverage for such employer."

The amendment was read and was adopted.

On motion of Senator Jones and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

Senator Mauzy moved that C.S.S.B. 456 be recommitted to the Committee on Jurisprudence.

The motion was lost by the following vote: Yeas 13, Nays 18.

Yeas: Braecklein, Brooks, Clower, Gammage, Harrington, Hightower, Kothmann, Longoria, Mauzy, Ogg, Santiesteban, Schwartz and Wallace.

Nays: Adams, Aikin, Andujar, Blanchard, Creighton, Harris, Herring, Jones, McKinnon, McKnight, Meier, Mengden, Moore, Patman, Sherman, Snelson, Traeger and Wolff.

The bill as amended was passed to engrossment.

RECORD OF VOTES

Senators Mauzy, Harrington, Clower, Meier, Braecklein, Ogg and Gammage asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

HOUSE BILL 68 RE-REFERRED

On motion of Senator Moore and by unanimous consent, H.B. 68 was withdrawn from the Committee on State Affairs and re-referred to the Committee on Administration.

MOTION TO PLACE HOUSE BILL 167 ON SECOND READING

Senator Longoria asked unanimous consent to suspend the regular order of business and take up H.B. 167 for consideration at this time.

There was objection.

Senator Longoria then moved to suspend the regular order of business and take up H.B. 167 for consideration at this time.

The motion was lost by the following vote: (Not receiving two-thirds vote of the Members present) Yeas 16, Nays 14.

Yeas: Adams, Aikin, Clower, Gammage, Harrington, Herring, Longoria, Mauzy, McKinnon, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Nays: Andujar, Blanchard, Braecklein, Brooks, Creighton, Harris, Jones, Kothmann, McKnight, Meier, Mengden, Moore, Ogg and Patman.

Absent: Hightower.

HOUSE BILL 1024 ON SECOND READING

On motion of Senator Herring and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1024, A bill to be entitled An Act relating to the modification of benefits for paid and volunteer firemen under the Firemen's Relief and Pension Fund; amending Section 7F, Chapter 125, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 6243e, Vernon's Texas Civil Statutes); and declaring an emergency.

The bill was read second time and was passed to third reading.

HOUSE BILL 1024 ON THIRD READING

Senator Herring moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 1024 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

Yeas: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

Yeas: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

CONFERENCE COMMITTEE ON HOUSE BILL 339

Senator Brooks called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H.B. 339 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on H.B. 339 before appointment.

Senator Blanchard moved that the conferees be instructed to leave the words "in the vicinity" in the Conference version of H.B. 339.

The motion prevailed.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brooks, Creighton, Moore, Harrington and Wallace.

**SENATE JOINT RESOLUTION 26
ON SECOND READING**

On motion of Senator Wallace and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.J.R. 26, Proposing a constitutional amendment stating that the District Court concurrently with the County Court shall have the general jurisdiction of a Probate Court, etc.

The resolution was read second time and was passed to engrossment.

RECORD OF VOTE

Senator Patman asked to be recorded as voting "Nay" on the passage of the resolution to engrossment.

**SENATE JOINT RESOLUTION 26
ON THIRD READING**

Senator Wallace moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.J.R. 26 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Clower, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Nays: Creighton and Patman.

The President then laid the resolution before the Senate on its third reading and final passage.

The resolution was read third time and was passed by the following vote: Yeas 29, Nays 2.

Yeas: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Clower, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Nays: Creighton and Patman.

**COMMITTEE SUBSTITUTE HOUSE BILL 169
ON SECOND READING**

On motion of Senator Jones and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 169, A bill to be entitled An Act creating the Office of Program Evaluation within the Legislative Budget Board; requiring the Office of

Program Evaluation to evaluate all agency, commission, department, school, and institution programs and operation and to make performance audits of these programs and operations; providing for an annual performance report; providing for an assistant director for program evaluation and staff; providing a severability clause; and declaring an emergency.

The bill was read second time.

Senator Jones offered the following amendment to the bill:

Amend C.S.H.B. 169 by striking Sections 1, 2 and 3 and substituting the following:

"Section 1. The Legislative Budget Board is directed to establish a system of performance audits and evaluation designed to provide a comprehensive and continuing review of the programs and operations of each state agency, department, commission or institution.

"Sec. 2. (a) The Legislative Budget Board shall make a performance report to the Legislature on the third Tuesday of each January in which the Legislature meets in Regular Session.

"(b) The performance report shall be published in such form as the Legislative Budget Board shall direct, but in content the performance report shall treat the programs and operations of each agency, department, commission or institution receiving an appropriation in the most recent General Appropriations Act, after the first full fiscal year of operation of each such agency, department, commission or institution.

"(c) The performance report shall analyze the operational efficiency of state agency operations and program performance in terms of explicitly stating the statutory functions each agency, department, commission and institution are to perform and how these statutory functions are being accomplished, in terms of unit-cost measurement, workload efficiency data, and program output standards as the Legislative Budget Board shall establish.

"Sec. 3. (a) The Director of the Legislative Budget Board shall, with the approval of the Legislative Budget Board, appoint an assistant director for program evaluation who shall report to, and be responsible to, the director of the Legislative Budget Board.

"(b) The director of the Legislative Budget Board shall employ sufficient personnel to effectuate the provisions of this Act."

The amendment was read and was adopted.

Senator Jones offered the following amendment to the bill:

Amend the caption of Committee Substitute House Bill 169 to read as follows:

"A BILL

TO BE ENTITLED

An Act requiring the Legislative Budget Board to conduct performance audits of agency programs and operations; providing for a performance report; providing a severability clause; and declaring an emergency."

The amendment was read and was adopted.

The bill as amended was passed to third reading.

**COMMITTEE SUBSTITUTE HOUSE BILL 169
ON THIRD READING**

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 169 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

Yeas: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

**COMMITTEE SUBSTITUTE SENATE BILL 837
ON SECOND READING**

Senator Jones asked unanimous consent to suspend the regular order of business and take up C.S.S.B. 837 for consideration at this time.

There was objection.

Senator Jones then moved to suspend the regular order of business and take up C.S.S.B. 837 for consideration at this time.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Longoria, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Nays: Blanchard, Clower, Kothmann and Mauzy.

The President laid before the Senate on its second reading and passage to engrossment:

C.S.S.B. 837, A bill to be entitled An Act relating to authorizing the State Highway Department to construct and maintain hiking, bicycling, and horseback riding trails; and declaring an emergency.

The bill was read second time and was passed to engrossment.

RECORD OF VOTES

Senators Clower and Blanchard asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE SENATE BILL 837
ON THIRD READING**

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 837 be placed on its third reading and final passage.

The motion prevailed by the following vote: Ycas 27, Nays 4.

Yeas: Adams, Aikin, Andujar, Bracklein, Brooks, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Longoria, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Nays: Blanchard, Clower, Kothmann and Mauzy.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Clower and Mauzy asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE BILL 235 LAID ON TABLE SUBJECT TO CALL

On motion of Senator Adams and by unanimous consent, S.B. 235 was Laid on Table Subject to Call.

SENATE BILL 688 LAID ON TABLE SUBJECT TO CALL

On motion of Senator Adams and by unanimous consent, S.B. 688 was Laid on Table Subject to Call.

SENATE CONCURRENT RESOLUTION 119

Senator Aikin offered the following resolution:

S.C.R. 119, Resolving that the Senate of the State of Texas, the House of Representatives concurring, that Senate Rule 96 (a) and (b) and House Rule 24, Sections 8 and 9, be suspended in part, as provided by Senate Rule 96 (f) and House Rule 24, Section 13, to enable consideration of, and action on the certain matters in the General Appropriations Bill, H.B. 139.

AIKIN
CREIGHTON
MOORE
BROOKS
SCHWARTZ

On motion of Senator Aikin and by unanimous consent, the resolution was considered immediately and was adopted.

COMMITTEE SUBSTITUTE SENATE BILL 202 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 202, A bill to be entitled An Act amending the following Articles of the Texas Business Corporation Act: Subsection (10), Section A, Article 1.02; Section A, Article 2.01; Section A, Article 2.02; Section D,

Article 2.03; Section F, Article 2.03; Section B, Article 2.12; Section A, Article 2.13; Section E, Article 2.15; Article 2.19, as amended; Article 2.20; Article 2.22, as amended; Article 2.23; Article 2.24; Section A, Article 2.29, as amended; Section D, Article 2.29, as amended; Article 2.32; Article 2.35; Article 2.36; Article 2.44; Section A, Article 3.02, as amended; Article 3.06; Section B, Article 4.01; Section A, Article 4.02; Section B, Article 4.03; Section A, Article 4.04; Section A, Article 4.07; Section A, Article 5.11, as amended; Article 5.14, as amended; Article 6.01, as amended; Section A, Article 8.05; Section A, Article 8.06; Article 8.07; Article 9.08; and Article 9.10, as amended; repealing Section C, Article 4.02, as amended; Section C, Article 4.03, as amended; and Section B, Article 4.04, as added; and adding Articles 2.14-1, 2.22-1, 2.30-1, 2.30-2, 2.30-3, 2.30-4, 2.30-5, and 8.04-1; and declaring an emergency.

The bill was read second time and was passed to engrossment.

RECORD OF VOTES

Senators Clower and Patman asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 202 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 202 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Mcier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Nays: Blanchard and Clower.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Patman, Clower, Blanchard, Wolff and McKinnon asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE BILL 252 WITH HOUSE AMENDMENTS

Senator Gammage called S.B. 252 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

AMENDMENT NO. 1

Amend Senate Bill 252, Second House Printing, Subsection (b), Section 4, by adding a new sentence to read as follows:

"However creditors may charge reasonable reinstatement fees as

consideration for renewal of a real estate loan or contract of sale, after default, if the additional fees are included in a written contract executed at the time of renewal."

AMENDMENT NO. 2

Amend Senate Bill 252 by striking all below the caption and substituting the following:

Section 1. **DEFINITIONS.** As used in this subchapter:

(a) "Debt" means any obligation or alleged obligation arising out of a consumer transaction.

(b) "Debt collection" means any action, conduct, or practice in soliciting debts for collection or in collecting debts owed or due, or alleged to be owed or due a creditor by a consumer.

(c) "Debt collector" means any person engaging directly or indirectly in debt collection, as defined herein, and includes any person who sells, or offers to sell, forms represented to be a collection system, device, or scheme, intended or calculated to be used to collect debts.

(d) "Consumer" means an individual who owes or allegedly owes a debt created primarily for personal, family, or household purposes.

(e) "Consumer transaction" means a transaction in which one or more of the parties is a consumer.

(f) "Creditor" means a party to a consumer transaction other than a consumer.

(g) "Person" means individual, corporation, trust, partnership, incorporated or unincorporated association, or any other legal entity.

Sec. 2. **THREATS OR COERCION.** No debt collector may collect or attempt to collect any debt alleged to be due and owing by any threats, coercion, or attempts to coerce which employ any of the following practices:

(a) using or threatening to use violence or other criminal means to cause harm to the person or property of any person;

(b) accusing falsely or threatening to accuse falsely any person of fraud or any other crime;

(c) representing or threatening to represent to a third party or any other person, that a consumer is willfully refusing to pay a non-disputed debt when the debt is in dispute for any reason and the consumer has notified such debt collector in writing of the dispute;

(d) threatening to sell or assign to another the obligation of the consumer with an attending false representation that the result of such sale or assignment would be that the consumer would lose any defense to the alleged debt or would be subject to illegal collection attempts;

(e) threatening that the debtor will be arrested for nonpayment of an alleged debt without proper court proceedings; however, nothing herein shall prevent a debt collector from informing the debtor that the debtor may be arrested after proper court proceedings in cases where the debtor has violated the criminal laws of this state;

(f) threatening to file charges, complaints, or criminal action against a debtor when in fact the debtor has not violated any criminal laws; provided, however, nothing herein shall prevent a debt collector from threatening to institute civil lawsuits or other judicial proceedings to collect a debt;

(g) threatening that nonpayment of an alleged debt will result in the seizure, repossession, or sale of any property of that person without proper court proceedings; however, nothing herein shall prevent a debt collector from exercising or threatening to exercise a statutory or contractual right of seizure, repossession, or sale which does not require court proceedings; or

(h) threatening to take any action prohibited by law.

Sec. 3. **HARASSMENT; ABUSE.** In connection with the collection of or attempt to collect any debt alleged to be due and owing by a consumer, no debt collector may oppress, harass, or abuse any person by methods which employ the

following practices:

(a) using profane or obscene language or language that is intended to unreasonably abuse the hearer or reader;

(b) placing telephone calls without disclosure of the name of the individual making the call, and with the willful intent to annoy or harass or threaten any person at the called number;

(c) causing expense to any person in the form of long distance telephone tolls, telegram fees, or other charges incurred by a medium of communication, without first disclosing the name of the person making the telephone call or transmitting the communication; or

(d) causing a telephone to ring repeatedly or continuously or making repeated and continuous telephone calls, with the willful intent to harass any person at the called number.

Sec. 4. UNFAIR OR UNCONSCIONABLE MEANS. No debt collector may collect or attempt to collect any debt by unfair or unconscionable means employing the following practices:

(a) seeking or obtaining any written statement or acknowledgment in any form that specifies that a consumer's obligation is one incurred for necessities of life where the obligation was not in fact incurred for such necessities; or

(b) collecting or attempting to collect any interest or other charge, fee, or expense incidental to the obligation unless such interest or incidental fee, charge, or expense is expressly authorized by the agreement creating the obligation or legally chargeable to the consumer. However, creditors may charge reasonable reinstatement fees as consideration for renewal of a real estate loan or contract of sale, after default, if the additional fees are included in a written contract executed at the time of renewal."

Sec. 5. FRAUDULENT, DECEPTIVE, OR MISLEADING REPRESENTATIONS. No debt collector may collect or attempt to collect debts or obtain information concerning a consumer by any fraudulent, deceptive, or misleading representations which employ the following practices:

(a) using any name while engaged in the collection of debts other than the true business or professional name or the true personal or legal name of the debt collector; or failing to maintain a list of all business or professional names known to be used or formerly used by individual persons collecting debts or attempting to collect debts for the debt collector.

(b) falsely representing that the debt collector has information in his possession or something of value for the consumer in order to solicit or discover information about the consumer;

(c) failing to clearly disclose, in any communication with the debtor, the name of the person to whom the debt has been assigned or is owed at the time of making any demand for money (provided, however, this subsection shall not apply to persons servicing or collecting real estate first lien mortgage loans);

(d) failing to clearly disclose, in any communication with the debtor, that the debt collector is attempting to collect a debt, unless such communication is for the purpose of discovering the whereabouts of the debtor;

(e) using any written communication which fails to clearly indicate the name of the debt collector and the debt collector's street address, when the written notice refers to an alleged delinquent debt; (the foregoing shall not require disclosure of names and addresses of employees of debt collectors);

(f) using any written communication which demands a response to a place other than the debt collector's or creditor's street address or post office box; (the foregoing shall not require response to the address of an employee of a debt collector);

(g) misrepresenting the character, extent, or amount of a debt against a consumer, or misrepresenting its status in any judicial or governmental proceeding;

(h) falsely representing that any debt collector is vouched for, bonded by, affiliated with, or an instrumentality, agent, or official of this state or any agency of federal, state, or local government;

(i) using, distributing, or selling any written communication which

simulates or falsely represents to be a document authorized, issued, or approved by a court, an official, a governmental agency, or any other legally constituted or authorized governmental authority, or which creates a false impression about its source, authorization, or approval; or using any seal or insignia or design which simulates that of any governmental agency;

(j) representing that a debt may be increased by the addition of attorney's fees, investigation fees, service fees, or other charges when there is no written contract or statute authorizing such additional fees or charges;

(k) representing that a debt will definitely be increased by the addition of attorney's fees, investigation fees, service fees, or other charges when the award of such fee or charge is discretionary by a court of law;

(l) falsely representing the status or true nature of the services rendered by the debt collector or his business;

(m) using any written communication which violates or fails to conform to the United States postal laws and regulations;

(n) using any communication which purports to be from any attorney or law firm, when in fact it is not;

(o) representing that a debt is being collected by an attorney when it is not; or

(p) representing that a debt is being collected by an independent, bona fide organization engaged in the business of collecting past due accounts when the debt is being collected by a subterfuge organization under the control and direction of the person to whom the debt is owed; however, nothing herein shall prohibit a creditor from owning or operating its own bona fide debt collection agency.

Sec. 6. DECEPTIVE USE OF CREDIT BUREAU NAME. No person shall use the term "credit bureau," "retail merchants," or "retail merchants association" in his business or trade name unless such person is in fact engaged in gathering, recording, and disseminating favorable as well as unfavorable information relative to the credit worthiness, financial responsibility, paying habits and other similar information regarding individuals, firms, corporations and any other legal entity being considered for credit extension so that a prospective creditor may be able to make a sound decision in the extension of credit. This paragraph shall not apply to any nonprofit retail trade association consisting of individual members and qualifying as a bona fide business league as defined by the United States Internal Revenue Service, and which nonprofit retail trade association does not engage in the business of debt collection or credit reporting.

Sec. 7. USE OF INDEPENDENT DEBT COLLECTORS. No creditor may use any independent debt collector who repeatedly and continuously engages in acts or practices which are prohibited by this Act after the creditor has actual knowledge that an independent debt collector is in fact repeatedly and continuously engaging in such acts or practices:

Sec. 8. BONA FIDE ERROR. No person shall be guilty of a violation of this Act if the action complained of resulted from a bona fide error notwithstanding the use of reasonable procedures adopted to avoid such error.

Sec. 9. PENALTIES. Any person who violates a provision of this Act is guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than \$100 nor more than \$500 for each violation. Such misdemeanor charge must be filed within one year of the date of the alleged violation.

Sec. 10. CIVIL REMEDIES. Any person may seek injunctive relief to prevent or restrain a violation of this Act and any person may maintain an action for actual damages sustained as a result of a violation of this Act. A person who successfully maintains such action shall be awarded attorneys' fees reasonable in relation to the amount of work expended and costs. On a finding by the court that an action under this section was brought in bad faith or for purposes of harassment, the court shall award to the defendant attorneys' fees reasonable in relation to the work expended and costs.

Sec. 11. OTHER REMEDIES. None of the provisions of this Act shall affect or alter any remedies at law or in equity otherwise available to debtors,

creditors, governmental entities, or any other legal entity.

Sec. 12. **EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The House amendments were read.

Senator Gammage moved to concur in House amendments.

The motion prevailed.

RECORD OF VOTES

Senators Jones, Aikin and Creighton asked to be recorded as voting "Nay" on the motion to concur in the House amendments.

MESSAGE FROM THE HOUSE

Hall of the House of Representatives
Austin, Texas, May 21, 1973

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 1660, A bill to be entitled An Act relating to conveyance to the City of Abilene by the State of Texas of title to certain land owned by the permanent school fund and located along Elm Creek within the City of Abilene in exchange for a conveyance by the City of Abilene to the State of Texas for the permanent school fund for certain land located along Elm Creek within the City of Abilene due to a relocation of Elm Creek; and declaring an emergency.

Respectfully submitted,
DOROTHY HALLMAN
Chief Clerk, House of Representatives

SENATE BILL 209 WITH HOUSE AMENDMENTS

Senator Ogg moved that the Senate concur in House amendments to S.B. 209 (the amendments having been laid before the Senate and read on Friday, May 18, 1973).

Question, Shall the Senate concur in House amendments to S.B. 209?

Pending discussion by Senator Schwartz of the motion to concur in House amendments, Senator Moore moved the previous question on the motion to concur in House amendments to S.B. 209, and the motion was duly seconded.

Question, Shall the previous question now be ordered?

The previous question was ordered by the following vote: Yeas 17, Nays 14.

Yeas: Adams, Aikin, Andujar, Brooks, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Meier, Moore, Ogg,

Santiesteban and Wolff.

Nays: Blanchard, Braecklein, Clower, Creighton, Mauzy, McKinnon, McKnight, Mengden, Patman, Schwartz, Sherman, Snelson, Traeger and Wallace.

The Senate then concurred in House amendments by the following vote: Yeas 19, Nays 12.

Yeas: Adams, Andujar, Braecklein, Brooks, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Meier, Mengden, Ogg, Santiesteban, Snelson and Traeger.

Nays: Aikin, Blanchard, Clower, Mauzy, McKinnon, McKnight, Moore, Patman, Schwartz, Sherman, Wallace and Wolff.

SENATE BILL 467 WITH HOUSE AMENDMENTS

Senator Herring called S.B. 467 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

COMMITTEE AMENDMENT NO. 1

Amend S.B. 467, First Printing, by striking the figure "290,000" appearing on line 12, and substituting in lieu thereof the figure "150,000".

COMMITTEE AMENDMENT NO. 2

Amend S.B. 467 by striking all above the enacting clause and substituting the following:

"A BILL

TO BE ENTITLED

An Act relating to the construction and operation of county-owned parking stations near county courthouses in counties with a population of 150,000 or more; and declaring an emergency."

The House amendments were read.

Senator Herring moved to concur in House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

Yeas: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

SENATE BILL 867 WITH HOUSE AMENDMENT

Senator Herring called S.B. 867 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

COMMITTEE AMENDMENT NO. 1

Amend S.B. 867 by adding on page 5, line 23 at the beginning of the underlined sentence, the words "Notwithstanding any other provision of this Act".

The House amendment was read.

Senator Herring moved to concur in House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

Yeas: Adams, Aikin, Andujar, Blanchard, Bracklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Tracger, Wallace and Wolff.

SENATE BILL 871 WITH HOUSE AMENDMENT

Senator Wallace called S.B. 871 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

AMENDMENT NO. 1

Amend Senate Bill 871 by adding the following sentence after the word "government" on line 15, page 1, first printing, to read as follows:

"Such person affected shall also demonstrate that he has suffered or will suffer actual injury or economic damage."

The House amendment was read.

Senator Wallace moved to concur in House amendment.

The motion prevailed.

**SENATE CONCURRENT RESOLUTION 116
WITH HOUSE AMENDMENT**

Senator Gammage called S.C.R. 116 from the President's table for consideration of the House amendment to the bill.

The President laid the resolution and the House amendment before the Senate.

AMENDMENT NO. 1

Amend S.C.R. 116 by striking the first 4 lines in the first resolving clause and substituting in lieu thereof the following:

"RESOLVED, by the Senate of the State of Texas, the House of Representatives concurring, that the Joint Rules are hereby suspended and the conference committee is hereby authorized to insert a new Section 3 and a new Section 4 to read as follows:".

The House amendment was read.

Senator Gammage moved to concur in House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

Yeas: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

SENATE BILL 777 WITH HOUSE AMENDMENTS

Senator Gammage called S.B. 777 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

COMMITTEE AMENDMENT NO. 1

Amend Senate Bill 777 by striking all above the enacting clause and substituting in lieu thereof the following:

"A BILL

TO BE ENTITLED

An Act to amend Chapter 21 of the Insurance Code of Texas (Acts 1951, 52nd Legislature, Chapter 491, page 868), as the same has been heretofore amended, by adding thereto a new article to be identified as Article 21.28-D and to be known and cited as the Life, Accident, Health and Hospital Service Insurance Guaranty Association Act; declaring purpose and scope; providing for liberal construction; defining terms; creating the Life, Accident, Health, and Hospital Service Insurance Guaranty Association; providing for a board of directors; prescribing powers and duties of the Association; providing for and limiting authority to make assessments; providing a plan of operation; prescribing the powers and duties of the Commissioner; authorizing procedures for the prevention of impairments; requiring certain procedures in particular situations; providing for examination by and annual reports to the Commissioner; exempting the Association from certain taxes; providing for immunity; specifying certain judicial procedures; providing for tax write-offs of certificates of contribution; prohibiting unconstitutional application; repealing all laws or parts of laws in conflict to the extent of such conflict; providing for severability with one noted exception; and declaring an emergency."

COMMITTEE AMENDMENT NO. 2

Amend Senate Bill 777 by striking all below the enacting clause and substituting in lieu thereof the following:

Section 1. That Chapter 21 of the Insurance Code, (Acts 1951, 52nd Legislature, Chapter 491, page 868), as heretofore amended, be and the same is hereby amended by adding to the said Chapter 21 a new article to be designated Article 21.28-D, to read as follows:

"Article 21.28-D. Life, Accident, Health, and Hospital Service Insurance Guaranty Association.

"Section 1. Short Title.

"This Act shall be known and may be cited as the Life, Accident, Health, and Hospital Service Insurance Guaranty Association Act.

"Section 2. Purpose.

"The purpose of this Act is to protect policyowners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies; accident insurance policies; health insurance policies, annuity contracts, and

supplemental contracts, and the holders of group hospital service contracts, subject to certain limitations, against failure in the performance of contractual obligation due to the impairment of the insurer issuing such policies or contracts. To provide this protection, (1) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages, (2) members of the association are subject to assessment to provide funds to carry out the purpose of this Act, and (3) the association is authorized to proceed in the prescribed manner, in the detection and prevention of insurer impairments.

"Section 3. Scope.

"(1) This Act shall apply to direct life insurance policies, accident insurance policies, health insurance policies, annuity contracts, and contracts supplemental to life, accident or health insurance policies, group hospital service contracts and annuity contracts issued by any domestic member insurer and all such policies and contracts issued by a foreign or alien insurer on residents of this state at the time such insurer becomes an impaired insurer as defined in this Act.

"(2) This Act shall not apply to:

"(a) Any such policies or contracts, or any part of such policies or contracts, under which the risk is borne by the policyholder;

"(b) Any kind of reinsurance contract or agreement between insurers, the terms of which do not create a direct liability of the assuming insurer, or the terms of which do not require the creation of a direct liability to the policyholder through issuance of an assumption certificate, or other written instrument;

"(c) Any kind of insurance or annuities, the benefits of which are exclusively payable or determined by a separate account required by the terms of such insurance policy to be maintained by the insurer or by a separate entity;

"(d) Any such policies or contracts issued by a foreign or alien insurer on nonresidents of this state at the time such insurer becomes an impaired insurer as defined in this Act.

"(e) Any such policy or contracts of a foreign or alien insurer whose domiciliary jurisdiction or state of entry provides by statutes or regulations for residents of this state protection substantially similar to that provided by this Act for residents of other states.

"(f) Any such policies or contracts issued by mutual assessment companies, local mutual aid associations, statewide mutual assessment companies, local mutual burial associations, stipulated premium insurance companies, fraternal benefit societies and assessment-as-needed companies, nor to such policies or contracts issued by insurers subject to the provisions of Chapter 360, Acts of the 62nd Legislature, Regular Session, 1971 (Article 21.28-C, Vernon's Texas Insurance Code).

"Section 4. Construction.

"This Act shall be liberally construed to effect the purpose under Section 2 which shall constitute an aid and guide to interpretation.

"Section 5. Definitions.

"As used in this Act:

"(1) 'Account' means any of the three accounts created under Section 6 of this Act.

"(2) 'Association' means the Life, Accident, Health and Hospital Service Insurance Guaranty Association created under Section 6 of this Act.

"(3) 'Commissioner' means the Commissioner of Insurance of this state.

"(4) 'Contractual obligation' means any policy or contract benefit (including but not limited to death, disability, hospitalization, medical, premium deposits, advance premiums, supplemental contracts, cash surrender, loan, nonforfeiture, extended coverage, annuities, and coupon and dividend accumulations to the owner, beneficiary, assignee, certificate holder, or third-party beneficiary), arising from an insurance policy or annuity contract to which this Act applies, issued or assumed by an insurer who becomes an impaired

insurer. A contractual obligation shall not include an amount for death benefit coverage in excess of \$300,000 in the aggregate under one or more covered policies on any one life.

"(5) 'Covered policy' means any policy or contract within the scope of this Act under Section 3.

"(6) 'Member insurer' means any insurance company authorized to transact in this state any kind of insurance to which this Act applies under Section 3.

"(7) 'Insolvent insurer' means a member insurer whose minimum free surplus, if a mutual company, or whose required capital, if a stock company, becomes, after the effective date of this Act, impaired to the extent prohibited by law.

"(8) 'Impaired insurer' means:

"(a) A member insurer which, after the effective date of this Act, is placed by the commissioner under an order of supervision, liquidation, rehabilitation, or conservation under the provisions of Article 21.28, Insurance Code, as amended, and Chapter 281, Acts of the 60th Legislature, Regular Session, 1967 (Article 21.28-A, Vernon's Texas Insurance Code); and that has been designated an 'Impaired Insurer' by the commissioner, or

"(b) A member insurer determined in good faith by the commissioner after the effective date of this Act to be unable or potentially unable to fulfill its contractual obligations.

"(9) 'Premiums' means direct gross insurance premiums and annuity considerations subject to Texas premium tax written on covered policies, less return premiums and considerations thereon and dividends paid or credited to policyholders on such direct business. 'Premiums' do not include premiums and considerations on contracts between insurers and reinsurers. As used in Section 9, 'premiums' are those for the calendar year preceding the determination of insolvency or impairment.

"(10) 'State Board of Insurance' means the State Board of Insurance created under Article 1.02, Insurance Code, as amended.

"Section 6. Creation of the Association.

"(1) There is created hereby a nonprofit legal entity to be known as the Life, Accident, Health and Hospital Service Insurance Guaranty Association. All member insurers shall be and remain members of the association as a condition precedent to their authority to transact insurance in this state. The association shall perform its functions under the plan of operation established and approved under Section 10 below, and shall exercise its powers through a board of directors established under Section 7 below. For purposes of administration and assessment, the association shall establish three accounts:

"(a) The accident, health and hospital services account;

"(b) The life insurance account; and

"(c) The annuity account.

"(2) The association shall come under the immediate supervision of the commissioner and shall be subject to the applicable provisions of the insurance laws of this state.

"Section 7. Board of Directors.

"(1) The State Board of Insurance shall appoint a board of directors of the association consisting of nine members, three of whom shall be chosen from employees or officers chosen from the ten member companies having the largest total direct premium income based on the latest financial statement on file at date of appointment, and the remaining members shall be chosen from the other companies to give fair representation to all such member insurers based on due consideration of their varying categories of premium income and geographical location. Of the original board of directors, three members shall be designated to serve for a four-year term of office; three members shall be designated to serve for a two-year term of office; and three shall be designated to serve for a six-year term of office. At the expiration of the term of office of each director, the State Board of Insurance shall appoint a successor to serve for a six-year term of office. All directors shall serve until their successors are appointed, except that in the case of any vacancy, the unexpired term of office

shall be filled by the appointment of a director by the State Board of Insurance. Should any director cease to be an officer or employee of a member insurer during his term of office, such office shall become vacant until his successor shall have been appointed. All directors shall be eligible to succeed themselves in office.

"(2) Directors shall not receive any remuneration or emolument of office, but they shall be entitled to reimbursement for their actual expenses incurred in performing their duties as directors.

"Section 8. Powers and Duties of the Association.

"In addition to the powers and duties enumerated in other sections of this Act,

"(1) If a member insurer becomes an insolvent insurer, as that term is herein defined, and has been designated an 'Impaired Insurer' by the commissioner, the association shall, upon entry by a court of competent jurisdiction after the effective date of this Act of an order appointing a receiver, either temporary or permanent, to take charge of the assets of such insolvent insurer, subject to any reasonable conditions imposed by the association and approved by the commissioner, guarantee, assume or reinsure, or cause to be guaranteed, assumed, or reinsured, the covered policies of such insolvent insurer, and shall make or cause to be made prompt payment of the contractual obligations of such insolvent insurer.

"(2) If a member insurer becomes an impaired insurer, as that term is herein defined, the association may, subject to any conditions imposed by the association other than those which impair the contractual obligations of the impaired insurer, and approved by the impaired insurer and the commissioner:

"(a) guarantee or reinsure, or cause to be guaranteed or reinsured, the impaired insurer's covered policies; or

"(b) provide such moneys, pledges, notes, guarantees or other means as are proper to effectuate Subparagraph (a) above, and assure payment of the impaired insurer's contractual obligations pending action under Subparagraph (a) above, or

"(c) loan money to the impaired insurer.

"(3) In carrying out its duties under Paragraphs (1) and (2), above, the association may impose moratoriums or policy liens against the nonforfeiture values of any contractual obligation under a covered policy; and

"(4) The association may render assistance and advice to the commissioner, upon his request, concerning rehabilitation, payment of claims, continuations of coverage, or the performance of other contractual obligations of any impaired insurer.

"(5) The association shall have standing to appear before any court in this state with jurisdiction over an insolvent insurer or an impaired insurer concerning which the association is or may become obligated under this Act. Such standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring or guaranteeing the covered policies of the insolvent insurer or the impaired insurer and the termination of the covered policies and contractual obligations.

"(6) (a) Any person receiving benefits under this Act shall be deemed to have assigned his rights under the covered policy to the association to the extent of the benefits received because of this Act whether the benefits are payments of contractual obligations or continuation of coverage. The association may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary, insured or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this Act upon such person. The association shall be subrogated to these rights against the assets of any impaired insurer.

"(b) The subrogation rights of the association under this subsection shall have the same priority against the assets of the insolvent insurer or the impaired insurer as that possessed by the person entitled to receive benefits under this Act.

"(7) The contractual obligations of the insolvent insurer or impaired

insurer for which the association becomes or may become liable shall be as great as but no greater than the contractual obligations of the insolvent insurer or impaired insurer would have been in the absence of an impairment unless such obligations are reduced as permitted by Paragraph (3).

"(8) The association may:

"(a) enter into such contracts as are necessary or proper to carry out the provisions and purposes of this Act;

"(b) sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under Section 9;

"(c) borrow money to effect the purposes of this Act. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;

"(d) employ or retain such persons as are necessary to handle the financial transactions of the association, and to perform such other functions as become necessary or proper under this Act;

"(e) negotiate and contract with any liquidator, rehabilitator, conservator, receiver, or ancillary receiver to carry out the powers and duties of the association;

"(f) take such legal action as may be necessary to avoid payment of improper claims;

"(g) exercise, for the purposes of this Act and to the extent approved by the commissioner, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform the contractual obligations of the impaired insurer.

"Section 9. Assessments.

"(1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall determine the amount necessary and the commissioner shall assess the member insurers, separately for each account, at such times and for such amounts as the board of directors finds necessary. All assessments ordered by the commissioner shall be payable to the association and the board of directors shall collect the assessments after 30 days' written notice to the member insurers before payment is due.

"(2) There shall be two classes of assessments, as follows:

"(a) Class A assessments shall be made for the purpose of meeting administrative costs and other general expenses not related to a particular insolvent or impaired insurer;

"(b) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under Section 8 with regard to an insolvent or impaired insurer.

"(3) (a) The amount of any Class A assessment for each account shall be determined by the board of directors. The amount of any Class B assessment shall be divided among the accounts in the proportion that the premiums received by such insurer on all covered policies;

"(b) Class A and Class B assessments against member insurers for each account shall be in the proportion that premiums received on all business by each assessed member insurer on policies covered by each account bears to such premiums received on all business by all assessed member insurers;

"(c) Assessments for funds to meet the requirements of the association with respect to an insolvent or impaired insurer shall not be made until necessary to implement the purposes of this Act. Classification of assessments under Paragraph (2), above, and computation of assessments under this paragraph shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

"(4) The commissioner may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the commissioner, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed one percent of such

insurer's premiums on the policies covered by the account.

"(5) In the event an assessment against a member insurer is abated or deferred, in whole or in part, because of the limitations set forth in Paragraph (4), above, the amount by which such assessment is abated or deferred, may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this paragraph. If the maximum assessment, together with the other assets of the association, does not provide in any one year an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this Act.

"(6) The board of directors may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each member insurer, the amount by which the assets exceed the amount the board of directors finds is necessary to carry out during the coming year the obligations of the association with regard to that amount, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

"(7) The association shall issue to each insurer paying a Class B assessment under this Act a certificate of contribution, in a form prescribed by the commissioner, for the amount so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or date of issue.

"(8) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact business in this state of any insurer who fails to pay an assessment when due. Any insurer whose certificate of authority to do business in this state is cancelled or surrendered shall be liable for any unpaid assessments made prior to the date of such cancellation or surrender.

"(9) The provisions of this section shall be valid and enforceable so long as the provisions of Section 19 remain in full force and effect.

"Section 10. Plan of Operation.

"(1) (a) The association shall submit to the commissioner a plan of operation and any amendment thereto necessary or suitable to assure the fair, reasonable and equitable administration of the association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the commissioner;

"(b) If the association fails to submit a suitable plan of operation within 180 days following the effective date of this Act, or if at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner may, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this Act. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

"(2) All member insurers shall comply with the plan of operation.

"(3) The plan of operation shall, in addition to requirements enumerated elsewhere in this Act:

"(a) establish procedures for handling the assets of the association;

"(b) establish the amount and method of reimbursing members of the board of directors under Section 7;

"(c) establish regular places and times for meetings of the board of directors;

"(d) establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors;

"(e) establish any additional procedures for assessments under Section 9;

"(f) contain additional provisions necessary or proper for the execution of the powers and duties of the association.

"(4) The plan of operation may provide that any or all powers and duties of the association, except those under Paragraph (8)(c) of Section 8 and Section

9, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of the association, or its equivalent, in two or more states. Such a corporation, association, or organization shall be reimbursed for any payments made on behalf of the association and shall be paid for its performance of any function of the association. A delegation under this paragraph shall take effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, or organization which extends protection not less favorably and effective than that provided by this Act.

"Section 11. Duties and Powers of the Commissioner.

"In addition to the duties and powers enumerated elsewhere in this Act,

"(1) The commissioner shall:

"(a) notify the board of directors of the existence of an insolvent or an impaired insurer not later than three days after a determination of impairment is made or after receipt of notice of impairment, whichever is earlier. The commissioner shall within three days notify the association of a member insured placed under supervision pursuant to Articles 21.28, and 21.28A;

"(b) upon request of the board of directors provide the association with a statement of the premiums for each member insurer;

"(c) when an impairment is declared and the amount of the impairment is determined, serve a demand upon the insolvent or impaired insurer to make good the impairment within a reasonable time. Notice to such insurer shall constitute notice to its shareholders, if any. The failure of such insurer to promptly comply with such demand shall not excuse the association from the performance of its powers and duties under this Act.

"(2) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to comply with the plan of operation. As an alternative the commissioner may levy a forfeiture upon any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed five percent of the unpaid assessment per month, but no forfeiture shall be less than \$100 per month. Any forfeiture paid under this section shall be paid by the member insurer to the commissioner and by him deposited with the state treasurer for credit to the general fund of this state.

"(3) Any action of the board of directors or the association may be appealed to the commissioner by any member insurer if such appeal is taken within 30 days of the action being appealed. Any final action or order of the commissioner shall be subject to appeal to the State Board of Insurance and to judicial review as provided in Sections (d) and (f), Article 1.04, Insurance Code, as amended.

"Section 12. Prevention of Impairments.

"To aid in the detection and prevention of insurer impairments:

"(1) The board of directors shall, upon majority vote, notify the commissioner of any information indicating any member insurer may be unable or potentially unable to fulfill its contractual obligations and may request appropriate investigation and action by the commissioner who may, in his discretion, make such investigation and take such action as he deems appropriate.

"(2) The board of directors shall advise and counsel with the commissioner upon matters relating to the solvency of insurers. The commissioner shall call a meeting of the board of directors when he determines that an insurer is insolvent or impaired and may call a meeting of the board of directors when he determines that a danger of insolvency or impairment of an insurer exists. The board of directors shall, upon majority vote, notify the commissioner of any information indicating that an insurer may be unable or potentially unable to fulfill its contractual obligations and request a meeting with the commissioner. At such meetings the commissioner may divulge to the board of directors any information in his possession and any records of the State Board of Insurance, including examination reports or preliminary reports from examiners relating to such insurer. The commissioner may summon officers, directors and employees of an insolvent or impaired insurer (or an insurer the commissioner considers to be

in danger of insolvency or impairment) to appear before the board of directors for conference or for the taking of testimony. Members of the board of directors shall not reveal information received in such meetings to anyone unless authorized by the commissioner or the State Board of Insurance or when required as witness in court. Board members and all of such meetings and proceedings under this section shall be subject to the same standard of confidentiality as is imposed upon examiners under Article 1.18 of the Insurance Code, as amended, except that no bond shall be required of a board member.

"The board of directors shall, upon request by the commissioner, attend hearings before the commissioner and meet with and advise the commissioner, liquidator or conservator appointed by the commissioner, on matters relating to the affairs of an impaired insurer and relating to action that may be taken by the commissioner, liquidator or conservator appointed by the commissioner to best protect the interests of persons holding covered contractual obligations against an impaired insurer and relating to the amount and timing of partial assessments and the marshalling of assets and the processing and handling of contractual obligations.

"(3) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer. Such reports and recommendations shall not be considered public documents. Reports or recommendations made by the board of directors to the commissioner, liquidator or conservator shall not be considered public documents and there shall be no liability on the part of and no cause of action against a member of the board of directors or the board of directors for any report, individual report, recommendation or individual recommendation by the board of directors or members to the commissioner, liquidator or conservator.

"(4) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of member insurer impairments.

"(5) The board of directors shall, at the conclusion of any member insurer impairment in which the association carried out its duties under this Act or exercised any of its powers under this Act, prepare a report on the history and causes of such impairment, based on the information available to the association, and submit a report on same to the commissioner.

"(6) Any insurer that has an officer, director or employee serving as a member of the board of directors shall not lose the right to negotiate for and enter into contracts of reinsurance or assumption of liability or contracts of substitution to provide for liabilities for contractual obligations with the receiver or conservator of an impaired insurer. The entering into any such contract shall not be deemed a conflict of interest.

"(7) The association or any insurer assessed under this Act shall be an interested party under Section 3(h) of Article 21.28 of the Insurance Code, as amended.

"Section 13. Miscellaneous Provisions.

"(1) Records shall be kept of all negotiations and meetings in which the association or its representatives are involved to discuss the activities of the association in carrying out its powers and duties under Section 8. Records of all such negotiations or meetings shall be made public only upon the termination of a receivership, liquidation, rehabilitation, conservatorship proceeding involving the insolvent insurer or impaired insurer, or upon the order of a court of competent jurisdiction. Nothing in this paragraph shall limit the duty of the association to render a report of its activities under Section 14.

"(2) For the purpose of carrying out its obligations under this Act, the association shall be deemed to be a creditor of the insolvent insurer or impaired insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled as subrogee pursuant to Paragraph (6) of Section 8. All assets of the insolvent insurer or impaired insurer attributable to covered policies and all assets to which covered policyholders are given a right of priority shall be used to continue all covered policies and

to pay all contractual obligations of such insurer as required by this Act.

"(3) (a) Prior to the termination of any receivership, liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders and policyowners of the insolvent insurer or impaired insurer, and any other party with a bona fide interest in making an equitable distribution of the ownership rights of such insurer. In such a determination, consideration shall be given to the welfare of the policyholders of the continuing or successor insurer.

"(b) No distribution to stockholders, if any, of an insolvent or impaired insurer shall be made until and unless the total amount of assessments levied by the commissioner with respect to such insurer has been fully recovered by the association.

"(4) The use in any manner of the protection afforded by this Act by any person in the sale of insurance shall constitute unfair competition and unfair practices under Article 21.21 of the Texas Insurance Code, as amended, and shall be subject to the provisions thereof.

"(5) (a) If an order for receivership, liquidation, rehabilitation, or conservatorship of a member insurer has been entered, the receiver appointed under such order shall have the right to recover on behalf of such insurer from any affiliate as defined in Section 1, Chapter 356, Acts of the 62nd Legislature, Regular Session, 1971 (Article 21.49-1, Vernon's Texas Insurance Code), that controlled it the amount of distributions, other than stock dividends paid by such insurer on its capital stock, at any time during the five years preceding the petition for receivership, liquidation, rehabilitation, or conservatorship, subject to the limitations of Subparagraphs (b) to (d), below:

"(b) No such dividend shall be recoverable if the insurer shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

"(c) Any person who was an affiliate as defined in Article 21.49-1, Texas Insurance Code, that controlled the insurer at the time the distributions were paid shall be liable up to the amount of distributions he received. If two persons are liable with respect to the same distributions, they shall be jointly and severally liable.

"(d) The maximum amount recoverable under this paragraph shall be the amount needed in excess of all other available assets of the insolvent insurer or impaired insurer to pay the contractual obligations of such insurer.

"(e) If any person liable under Subparagraph (c) is insolvent, all its affiliates as defined in Section 1, Chapter 356, Acts of the 62nd Legislature, Regular Session, 1971 (Article 21.49-1, Vernon's Texas Insurance Code), that controlled it at the time the dividend was paid shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate as defined in Section 1, Chapter 356, Acts of the 62nd Legislature, Regular Session, 1971 (Article 21.49-1, Vernon's Texas Insurance Code).

"Section 14. Examination of the Association; Annual Report.

"The association shall be subject to examination and regulation by the commissioner. The board of directors shall submit to the commissioner, not later than May 1 of each year, a financial report for the preceding calendar year in a form approved by the commissioner and a report of its activities during the preceding calendar year.

"Section 15. Tax Exemptions.

"The association shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except taxes levied on real property.

"Section 16. Immunity.

"There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents, or employees, the

association or its agents or employees, members of the board of directors, or the commissioner or his representatives, for any action taken or not taken by them in the performance of their powers and duties under this Act.

"Section 17. Continuing to Write Insurance Policies.

"Companies subject to the provisions of this Act shall not be liable for assessments for contractual obligations arising from insurance policies issued after the effective date of and while an impaired insurer is subject to an order by the commissioner of insurance placing an impaired insurer in conservatorship unless the commissioner, in his order appointing the conservator, directs the conservator to continue the issuance of insurance policies, under such terms and conditions as the commissioner may prescribe. The commissioner shall furnish a copy of such order to the board of directors of the association. In the event that the commissioner, in his original order appointing the conservator, directs the conservator to continue the issuance of insurance policies in the impaired insurer, companies subject to the provisions of this Act shall not be liable for assessments for claims arising from insurance policies issued more than 90 days after the date of the commissioner's order appointing the conservator unless the commissioner, prior to the expiration of such 90 day period, determines, after public hearing, that it is in the best interests of the policyholders of the impaired insurer or in the public interest for the impaired insurer to continue the issuance of insurance policies. At least 10 days notice of such hearing shall be given to the board of directors of the association. The board of directors shall have the right to appear at and participate in the hearing. The conservator or his representative shall appear at such hearing and present evidence why it would be in the best interest of the policyholders of the impaired insurer to continue the issuance of policies.

"Companies subject to the provisions of this Act shall not be liable for assessments for contractual obligations arising from insurance policies issued after the effective date of and while an impaired insurer is subject to an order by a court of competent jurisdiction placing an impaired insurer in temporary or permanent receivership.

"Section 18. Release from Conservatorship or Receivership.

"An impaired insurer placed in conservatorship or receivership for which assessments have been made under the provisions of this Act shall not be authorized, upon release from conservatorship or receivership, to issue new or renewal insurance policies until such time as the impaired insurer has repaid in full to the association the amount of Class B assessments paid to the association to carry out the duties of the association under Section 8 in relation to such insurer the amount paid; provided, however, the commissioner may, upon application of the board of directors of the association and after hearing, permit the issuance of new policies in accordance with a plan of operations by the released insurer for repayment of assessments. The commissioner may, in approving such plan, place such restrictions upon the issuance of new or renewal policies as he deems necessary to the implementation of the plan.

"Section 19. Tax Write-offs of Certificate of Contribution.

"(1) Unless a longer period of time has been required by the commissioner, a member insurer shall at its option have the right to show a certificate of contribution as an admitted asset in the form approved by the commissioner pursuant to Section 9, Paragraph (7), at percentages of the original face amount approved by the commissioner, for calendar years as follows:

- "100 percent for the calendar year of issuance;
- "80 percent for the first calendar year after the year of issuance;
- "60 percent for the second calendar year after the year of issuance;
- "40 percent for the third calendar year after the year of issuance;
- "20 percent for the fourth calendar year after the year of issuance.

"(2) The insurer may offset the amount written off by it in a calendar year under Paragraph (1), above, against its premium tax liability to this state accrued with respect to business transacted in such year. Provided, however, an insurer may not be required to write off in any one year, an amount in excess of its premium tax liability to this state accruing within such year.

"(3) Any sums acquired by refund, pursuant to Paragraph (6) of Section 9, from the association which have theretofore been written off by contributing insurers and offset against premium taxes as provided in Paragraph (2), above, and are not then needed for purposes of this Act, shall be paid by the association to the commissioner and by him deposited with the state treasurer for credit to the general fund of this state.

"Section 20. Rules and Regulations.

"The State Board of Insurance is authorized and directed to issue such reasonable rules and regulations as may be necessary to carry out the various purposes and provisions of this Act, and in augmentation thereof."

Sec. 2. All laws or parts of laws in conflict herewith are hereby repealed to the extent of conflict only.

Sec. 3. Except as provided in Section 9(9) of Article 21.28-D, as set out in Section 1, of this Act, it is provided that if any section, subsection, paragraph, sentence, clause, phrase, or word in this Act, or the application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the legislature hereby declares that it would have passed such remaining portions despite such invalidity.

Sec. 4. Unconstitutional application prohibited. This Act and law does not apply to any insurer or other person to whom, under the Constitution of the United States or the Constitution of the State of Texas, it can not validly apply.

Sec. 5. The importance of this legislation and the crowded condition of the calendars in both houses creates an emergency and an imperative public necessity that the constitutional rule requiring all bills to be read on three several days in each house be and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

The House amendments were read.

Senator Gammage moved to concur in House amendments.

The motion prevailed.

SENATE BILL 523 WITH HOUSE AMENDMENT

Senator Brooks called S.B. 523 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

AMENDMENT NO. 1

Amend S.B. No. 523 by renumbering Section 2 to be Section 3, and adding a Section 2 to read as follows:

Sec. 2. (a) There is hereby created a court to be held in Harris County, Texas, to be called the "County Civil Court at Law No. 3 of Harris County, Texas," and the seal of said Court shall be the same as provided by law for county courts except the seal shall contain the words "County Civil Court at Law No. 3."

(b) The County Civil Court at Law No. 3 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over civil matters, proceedings and cases, that is now or may be vested in the County Civil Courts

at Law Nos. 1 and 2, and shall have jurisdiction in civil actions, and the judge thereof to exercise equal administrative and ministerial jurisdiction in matters of the filing and disposition of proceedings in eminent domain, concurrently and coextensively with the judge presiding in County Civil Court at Law No. 1 and the judge presiding in County Civil Court at Law No. 2, under the Constitution and laws of Texas, and this Court shall have appellate jurisdiction likewise in appeals of civil cases from the justice courts within Harris County, and the Judges of said Court shall have the same powers, rights and privileges as to civil matters as are or may be vested in the judges of county courts having civil jurisdiction, provided that the said Court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Court of Harris County, or in the Judge thereof.

(c) The County Civil Court at Law No. 3 of Harris County shall have jurisdiction in all civil matters and causes, original and appellate, except probate matters, over which, by the Constitution and general laws of the State of Texas, the County Court of said County would have formerly had jurisdiction, and shall have equal and like jurisdiction over civil cases, and civil proceedings in the same manner as jurisdiction has been heretofore exercised in civil cases and civil proceedings and in eminent domain by the County Civil Court at Law No. 1 and the County Civil Court at Law No. 2. The County Civil Courts at Law Nos. 1, 2, and 3 shall have special jurisdiction in matters of eminent domain and the Judges thereof shall have sole administrative and ministerial jurisdiction to file and dispose of proceedings in eminent domain concurrently and coextensively when filed in either of said Civil Courts or with the respective Judges thereof.

(d) The terms of the County Civil Court at Law No. 3 of Harris County, and the practice therein and appeals and writs of error therefrom shall be as prescribed by laws relating to county courts. The terms of the Harris County Civil Court at Law No. 3 for civil cases shall be held as now established for the terms of the County Civil Courts at Law Nos. 1 and 2 of Harris County until the same be changed in accordance with the law.

Said Court shall hold six terms a year, beginning respectively on the first Monday in January, in March, in May, in July, in September, and in November of each year, and each term shall continue until the business is disposed of.

(e) The Judge of the said Harris County Civil Court at Law No. 3 shall be elected at the General Election by the qualified voters of Harris County for a term of four years and shall hold his office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the Bar of this State for not less than five years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the Commissioners Court in equal monthly installments; and when this Act becomes effective the Commissioners Court of Harris County shall appoint a Judge to the County Civil Court at Law No. 3 of Harris County who shall have the qualifications herein prescribed, and shall serve until the next General Election, and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of Judge of said Harris County Civil Court at Law No. 3, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding General Election and until his successor shall be duly elected and qualified.

(f) The Judge of the Harris County Civil Court at Law No. 3 shall execute a bond and take the oath of office as required by the law relating to county judges.

(g) A special Judge of the Harris County Civil Court at Law No. 3 may be appointed or elected as provided by law relating to county courts and to the judges thereof.

(h) The County Clerk of Harris County shall be the Clerk of the Harris County Civil Court at Law No. 3. The Sheriff of Harris County shall, in person or by deputy, attend the said Court when required by the Judge thereof.

Said County Clerk shall keep separate dockets for each of said Civil

Courts Nos. 1, 2, and 3, and shall tax the official court reporter's fee as costs in civil actions filed in each of said Courts in like manner as said fee is taxed in civil cases in the district courts.

The County Clerk shall after the effective date of this Act, file all civil cases and civil proceedings exclusively in the County Civil Courts at Law No. 1 and No. 2 and No. 3 and shall file said civil cases alternately in each of said Courts as presented for filing.

(i) In case of disqualification, an overcrowded docket, sickness or absence from the county, of any of the Judges of the County Civil Courts at Law No. 1 or No. 2 or No. 3, or County Criminal Courts at Law, any other Judge of said Courts may exchange benches with any other County Court at Law Judge of Harris County, Texas, and when so exchanging benches with any other of the said County Court at Law Judges of Harris County, the Judge of County Civil Court at Law No. 3 of Harris County, Texas, shall have all power and jurisdiction of the County Civil or County Criminal Courts at Law, and of the judge thereof, while so exchanging benches; and in like manner the Judges of said County Civil or Criminal Courts at Law of Harris County, Texas, shall have all the power and jurisdiction of any other of said Civil or Criminal County Courts at Law and of the Judges thereof while so exchanging benches, and may sign orders, judgments and decrees, or other process as "Judge Presiding" when acting for such disqualified or absent judge upon request or in an emergency, or for good cause shown.

(j) The Judge of the County Civil Court at Law No. 3, of Harris County, Texas, may appoint and discharge an Official Court Reporter in the same manner as such a reporter is appointed or discharged by the district courts, and who shall receive the same salary as the reporters of the District Courts of Harris County, Texas, the same to be paid by the County Treasurer out of the General Fund of the County, and in addition to said salary the compensation for transcript fees as provided by law.

The House amendment was read.

Senator Brooks moved to concur in House Amendment.

The motion prevailed.

SENATE BILL 863 WITH HOUSE AMENDMENTS

Senator Wolff called S.B. 863 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

AMENDMENT NO. 1

Amend S.B. 863 by adding the following on page 2 at line 14, after the word "commission" and before the word "to" the following words: "after examination".

AMENDMENT NO. 2

Amend Senate Bill 863, First House Printing, page 1, line 24, by striking the words "shampoo person", and inserting the words "hair technician".

The House amendments were read.

Senator Wolff moved to concur in House amendments.

The motion prevailed.

HOUSE BILLS ON FIRST READING

The following bills received from the House, were read the first time and referred to the Committee indicated:

H.B. 1684, To Committee on Administration.
H.B. 1685, To Committee on Administration.
H.B. 1655, To Committee on Administration.
H.B. 1654, To Committee on Administration.
H.B. 835, To Committee on Administration.
H.B. 1656, To Committee on State Affairs.
H.B. 995, To Committee on Administration.
H.B. 1589, To Committee on Administration.
H.B. 379, To Committee on Natural Resources.
H.B. 576, To Committee on Human Resources.
H.B. 1660, To Committee on Administration.

**MOTION TO PLACE
HOUSE BILL 370 ON SECOND READING**

Senator Mauzy asked unanimous consent to suspend the regular order of business and take up H.B. 370 for consideration at this time.

There was objection.

Question, Shall unanimous consent be granted?

NOTICES OF INTENT

The following Notices of Intent were filed with the Secretary of the Senate:

Tuesday, May 22, 1973

S.B. 86 - Senator Brooks
S.B. 164 - Senator Adams
S.B. 184 - Senator Mengden
S.B. 285 - Senator Mauzy
S.B. 385 - Senator Harris
S.B. 424 - Senator Snelson
C.S.S.B. 456 - Senator Jones
S.B. 469 - Senator Mauzy
C.S.S.B. 490 - Senator Brooks
C.S.S.B. 495 - Senator Brooks
S.B. 501 - Senator Santiesteban
S.B. 521 - Senator Gammage
C.S.S.B. 628 - Senator Mengden
S.B. 653 - Senator Meier
C.S.S.B. 655 - Senator Meier
C.S.S.B. 687 - Senator Mauzy
C.S.S.B. 712 - Senator Mauzy
C.S.S.B. 746 - Senator Mauzy
S.B. 783 - Senator Ogg
S.B. 800 - Senator Mauzy
S.B. 852 - Senator Mauzy
S.B. 967 - Senator Ogg
S.B. 991 - Senator Patman
H.J.R. 7 - Senator Meier
H.B. 2 - Senator Mauzy
H.B. 55 - Senator Santiesteban

C.S.H.B. 83 - Senator Adams
 H.B. 167 - Senator Longoria
 H.B. 200 - Senator Ogg
 H.B. 311 - Senator Hightower
 H.B. 370 - Senator Mauzy
 C.S.H.B. 371 - Senator Mauzy
 H.B. 441 - Senator Mauzy
 H.B. 460 - Senator Santiesteban
 H.B. 548 - Senator Santiesteban
 H.B. 569 - Senators Ogg and Brooks
 H.B. 628 - Senator Traeger
 H.B. 735 - Senator Santiesteban
 H.B. 738 - Senator Santiesteban
 H.B. 825 - Senator Sherman
 H.B. 844 - Senator Santiesteban
 H.B. 845 - Senator Brooks
 H.B. 865 - Senator Aikin
 H.B. 946 - Senator Aikin
 H.B. 1072 - Senator Snelson
 H.B. 1118 - Senator Snelson
 H.B. 1153 - Senator Sherman
 H.B. 1427 - Senator Aikin
 H.B. 1463 - Senator Sherman
 H.B. 1519 - Senator Santiesteban
 S.B. 536 - Senator Clower
 S.B. 639 - Senator Clower
 S.B. 761 - Senator Ogg

Wednesday, May 23, 1973

H.B. 311 - Senator Hightower

MEMORIAL RESOLUTIONS

S.R. 823 - By Senator Snelson: Memorial resolution for Mrs. Bradley Long.

S.R. 824 - By Senator Snelson: Memorial resolution for Brian Pruitt.

S.R. 825 - By Senator Snelson: Memorial resolution for James H. Cass.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 815 - By Senator Blanchard: Extending congratulations to Jerry Dean McKinney.

S.R. 817 - By Senator Adams: Extending congratulations to Lufkin High School Baseball Team.

S.R. 818 - By Senator Adams: Extending congratulations to Texas Forestry Association.

S.R. 819 - By Senator Adams: Extending congratulations to Sam Williams, Curtis Blanton and Columbus Johnson.

S.R. 820 - By Senator Clower: Extending congratulations to Suzanne Marie Hill.

S.R. 821 - By Senator Clower: Extending commendations to Chrissy

Gatewood, Cindy Hackett, Lorri Mitchell, Lisa Murphy, Joni Robbins and Rosemary Russell.

S.R. 822 - By Senator Clower: Extending congratulations to Bruce Popham.

S.R. 826 - By Senator Herring: Extending commendations to John C. White, Commissioner of Agriculture.

S.R. 828 - By Senator Wolff: Extending commendations to Juan Vidaurri.

S.R. 829 - By Senator Wolff: Extending commendations to Sisters of the San Antonio community of Discalced Carmelite Nuns.

S.R. 830 - By Senator Wolff: Extending commendations to George de la Garza.

ADJOURNMENT

Senator Blanchard moved that the Senate stand adjourned until 10:00 o'clock a.m. tomorrow.

Question on the motion to adjourn, "Yeas" and "Nays" were demanded.

The motion prevailed by the following vote: Yeas 18, Nays 13.

Yeas: Adams, Aikin, Andujar, Blanchard, Creighton, Harris, Herring, Jones, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Sherman, Snelson, Traeger and Wallace.

Nays: Braecklein, Brooks, Clower, Gammage, Harrington, Hightower, Kothmann, Longoria, Mauzy, Patman, Santiesteban, Schwartz and Wolff.

Accordingly, the Senate at 12:59 o'clock p.m. adjourned until 10:00 o'clock a.m. tomorrow.

APPENDIX

Sent to Governor

May 21, 1973

S.C.R. 105	S.B. 383
S.J.R. 25	S.B. 454
S.J.R. 29	S.B. 695
S.B. 44	S.B. 725
S.B. 237	S.B. 858
S.B. 263	

EIGHTIETH DAY (Tuesday, May 22, 1973)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment, and was